

APPENDIX

Order Granting Stay Pending Appeal, No. 23-1592 (4th Cir. July 10, 2023)	App'x 1
Order Granting Stay Pending Appeal, No. 23-1594 (4th Cir. July 10, 2023)	App'x 3
Order Granting Stay Pending Appeal, No. 23-1384 (4th Cir. July 11, 2023)	App'x 5
Exhibit 1 to Opposition to Motion for Stay Pending Review: Declaration of Robert J. Cooper, Senior Vice President of Construction Services, Mountain Valley Pipeline, LLC (July 10, 2023)	App'x 7
Exhibit 2 to Opposition to Motion for Stay Pending Review: Declaration of Justin Macken, Senior Vice President of Gas Systems Planning and Engineering, Equitrans Midstream Corporation (July 7, 2023)	App'x 20
Exhibit 3 to Opposition to Motion for Stay Pending Review: Declaration of Nelson Peeler, Senior Vice President, Transmission and Fuels Strategy and Policy, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (May 3, 2023)	App'x 25
Exhibit 4 to Opposition to Motion for Stay Pending Review: Declaration of Scott Teel, Senior Vice President, Commercial Operations, Southern Company Services, Inc. (Apr. 21, 2023)	App'x 31
Exhibit 5 to Opposition to Motion for Stay Pending Review: Declaration of Paul W. Nester, President and CEO, Roanoke Gas Company (May 4, 2023)	App'x 34
Exhibit 6 to Opposition to Motion for Stay Pending Review: Declaration of Keith Shoemaker, Vice President, Commercial, EQT Energy, LLC (May 3, 2023)	App'x 40
Exhibit 7 to Opposition to Motion for Stay Pending Review: Declaration of Rose M. Jackson, Director – Fuel Commodities, Dominion Energy Services, Inc. (May 5, 2023)	App'x 44

Exhibit H to Petitioner’s Motion to Stay Pending Review:
Order Authorizing All Construction Activities,
183 FERC ¶ 61,221 (June 28, 2023)App’x 51
Declaration of Robert J. Cooper (July 14, 2023)App’x 57
Declaration of Justin A. Macken (July 14, 2023).....App’x 60
Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, § 324,
137 Stat. 10, 47-48 (2023)App’x 67

FILED: July 10, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1592 (L)

THE WILDERNESS SOCIETY

Petitioner

v.

UNITED STATES FOREST SERVICE; HOMER L. WILKES, in his official capacity as Under Secretary for Natural Resources and Environment; U.S. DEPARTMENT OF AGRICULTURE; KENDERICK ARNEY, in his official capacity as Regional Forester of the Southern Region

Respondents

and

MOUNTAIN VALLEY PIPELINE, LLC

Intervenor - Respondent

O R D E R

Upon consideration of petitioner's motion for stay pending appeal, the court grants the motion and stays construction during the pendency of this petition for

App'x 1

review.

Entered at the direction of Judge Gregory with the concurrence of Judge Wynn and Judge Thacker.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: July 10, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1592 (L)

THE WILDERNESS SOCIETY

Petitioner

v.

UNITED STATES FOREST SERVICE; HOMER L. WILKES, in his official capacity as Under Secretary for Natural Resources and Environment; U.S. DEPARTMENT OF AGRICULTURE; KENDERICK ARNEY, in his official capacity as Regional Forester of the Southern Region

Respondents

and

MOUNTAIN VALLEY PIPELINE, LLC

Intervenor - Respondent

O R D E R

Upon consideration of petitioner's motion for stay pending appeal, the court grants the motion and stays construction during the pendency of this petition for

review.

Entered at the direction of Judge Gregory with the concurrence of Judge Wynn and Judge Thacker.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: July 11, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1384
(CP16-10-000)

APPALACHIAN VOICES; WILD VIRGINIA; WEST VIRGINIA RIVERS
COALITION; PRESERVE GILES COUNTY; PRESERVE BENT MOUNTAIN,
a chapter of Blue Ridge Environmental Defense League; WEST VIRGINIA
HIGHLANDS CONSERVANCY; INDIAN CREEK WATERSHED
ASSOCIATION; SIERRA CLUB; CHESAPEAKE CLIMATE ACTION
NETWORK; CENTER FOR BIOLOGICAL DIVERSITY

Petitioners

v.

UNITED STATES DEPARTMENT OF THE INTERIOR; DEB HAALAND, in
her official capacity as Secretary of the U.S. Department of the Interior; UNITED
STATES FISH AND WILDLIFE SERVICE, an agency of the U.S. Department of
Interior; CINDY SCHULZ, in her official capacity as Field Supervisor, Virginia
Ecological Services, Responsible Official; MARTHA WILLIAMS, in her official
capacity as Director of the U.S. Fish and Wildlife Service

Respondents

MOUNTAIN VALLEY PIPELINE, LLC

Intervenor

O R D E R

Upon consideration of petitioners' motion for stay pending appeal, the court grants the motion and stays respondent United States Fish and Wildlife Service's Biological Opinion and Incidental Take Statement during the pendency of this petition for review.

Entered at the direction of Judge Gregory with the concurrence of Judge Wynn and Judge Thacker.

For the Court

/s/ Patricia S. Connor, Clerk

Exhibit 1

Declaration of Robert J. Cooper,
Senior Vice President of Construction
Services, Mountain Valley Pipeline,
LLC (July 10, 2023)

No. 23-1592(L), 23-1594

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

THE WILDERNESS SOCIETY,
Petitioner,

v.

UNITED STATES FOREST SERVICE, ET AL.,
Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,
Intervenor.

DECLARATION OF ROBERT J. COOPER

I, Robert J. Cooper, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Senior Vice President of Construction Services at Mountain Valley Pipeline, LLC (“Mountain Valley”). I have worked at Mountain Valley on the Mountain Valley Pipeline Project (“MVP Project”) since 2017. I have worked for Equitrans Midstream Corporation, one of Mountain Valley’s partners, since it was formed in 2018. From 2004 to 2018, I worked for Equitrans, L.P., a subsidiary of EQT Corporation that was part of the business that EQT spun off to form Equitrans Midstream Corporation.

2. I am the company-wide leader for the MVP Project, and I am responsible for overseeing all construction, engineering, environmental, and land functions for the MVP Project. Among other things, I am responsible for ensuring that all construction and engineering is accomplished safely, effectively, and in accordance with applicable regulations, permits, and contracts. As a result, I am knowledgeable regarding Mountain Valley's application process for requesting and obtaining the approvals necessary to construct, operate, and decommission the MVP Project. I also am knowledgeable regarding the progress made on the construction of the MVP Project and the role that the authorizations from the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to construct the MVP Project in the Jefferson National Forest (JNF) play in the overall plan for completing the full MVP Project.

I. The MVP Project

3. The MVP Project, when complete, will consist of approximately 304 miles of new 42-inch-diameter natural gas pipeline, running from Wetzel County, West Virginia, to Pittsylvania County, Virginia, three new compressor stations, five new meter and regulation stations and interconnections, and other facilities, such as access roads, necessary for operation of the pipeline.

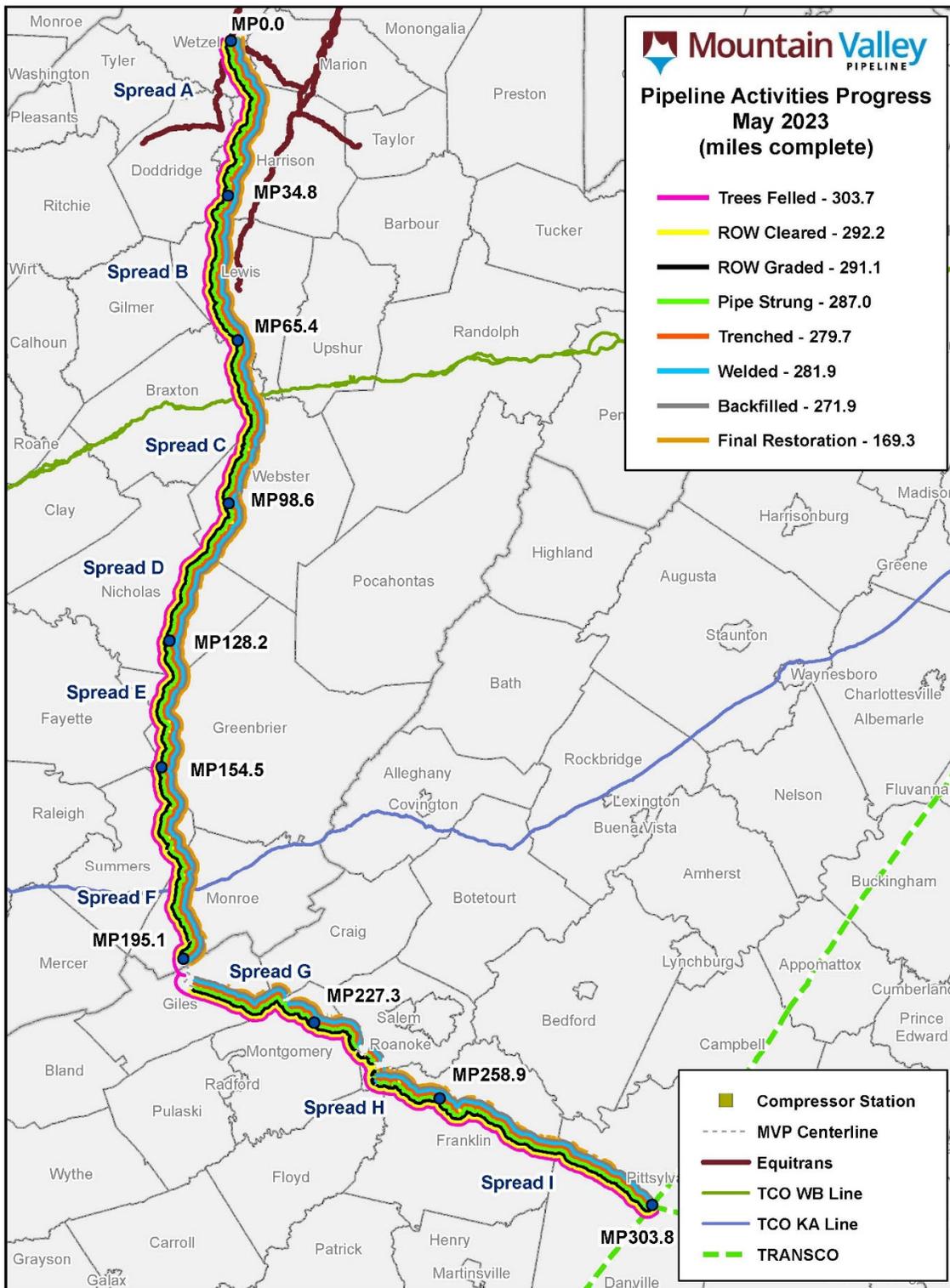
4. Work on the Project is mostly complete. All three compressor stations have been constructed, the three originally certificated interconnects have been

completed, and most of the pipeline work along the right-of-way is complete as detailed in the following table:

Activity	Progress (Miles)	Progress (%)
Trees Felled	303.7	99.99%
Cleared ROW	292.2	96.24%
Graded ROW	291.1	95.86%
Trenching	279.7	92.13%
Stringing	287.0	94.51%
Bending	285.8	94.12%
Welding	281.9	92.84%
Laying	274.8	90.50%
Backfilling	271.9	89.55%
Tie-In	256.0	84.32%
Final Restoration	169.3	55.77%

Work remaining on the MVP Project other than final restoration consists primarily of waterbody crossings, work in areas adjacent to those crossings, and work to clear, grade, and trench a small portion of the pipeline right-of-way primarily in and around the JNF.

5. The following map shows the route of the MVP Project and progress toward completion along the pipeline route:



II. Schedule for Completion of Construction of the MVP Project

6. On February 19, 2021, Mountain Valley submitted a Joint Permit Application (JPA) with the U.S. Army Corps of Engineers and provided necessary information to support State water-quality certification reviews. Through the JPA, Mountain Valley sought from the Corps an individual permit under Section 404 of the federal Clean Water Act (CWA) and section 10 of the Rivers and Harbors Act, and a water quality certification under Section 401 of the CWA from the Virginia Department of Environmental Quality (VDEQ). Mountain Valley separately applied for a water quality certification from the West Virginia Department of Environmental Protection (WVDEP) and submitted the JPA to WVDEP as supporting information.

7. On December 14, 2021, the Virginia State Water Control Board (SWCB) voted to authorize VDEQ to issue a water quality certification for the Project, and VDEQ did so on December 20, 2021. WVDEP issued its water quality certification for the Project on December 30, 2021. Both certifications were challenged in the Fourth Circuit. The Court upheld the Virginia certification on March 29, 2023, but vacated the West Virginia certification on April 3, 2023. WVDEP re-evaluated its administrative record in light of the Court's decision and re-issued its certification on June 8, 2024. The Corps issued an individual permit for the Project on June 23, 2024.

8. USFS and BLM issued records of decision authorizing construction in the JNF on May 14, 2023 and May 17, 2023 respectively. BLM expressly authorized Mountain Valley to resume construction in the JNF on July 3, 2023. With these authorizations, Mountain Valley expects to be able to complete the Project and achieve final restoration of 79% of the right of way by December 31, 2023. MVP plans to bring all but 63 miles of right of way to final restoration before the 2023 growing season ends. The remaining 63 miles will be restored the following spring of 2024.

9. Mountain Valley already has resumed construction in the JNF pursuant to BLM's July 3 order. It has begun clearing vegetation that has grown in areas of the right-of-way originally cleared in 2018 on Brush Mountain and will begin grading work on July 12. Equipment needed for clearing and grading already has been mobilized to the Brush Mountain Area.

III. A Stay of the BiOp/ITS Will Cause Irreparable Harm to Mountain Valley.

10. Should the Court stay the BLM and USFS authorizations, Mountain Valley will suffer irreparable harm.

11. Should a stay be issued, Mountain Valley will need to de-mobilize work crews and equipment already deployed to Brush Mountain. The cost to demobilize those crews and then remobilize them after any stay is lifted will be roughly \$5 million.

12. Should a stay remain in place through late 2023 or early 2024, Mountain Valley will not be able to complete construction in the JNF during the 2023 construction season. That will delay in the in-service date from late 2023 until June 2024 at the earliest. And a stay of even a few weeks will prevent the Project from being placed in service by the end of the year as currently planned. Once the Court issues a stay, Mountain Valley will need to de-mobilize equipment and work crews already assigned to the right-of-way in the JNF. The process of re-mobilizing crews after a stay has been lifted will take several days, after which Mountain Valley must complete required pre-construction wildlife surveys and clear trees felled in 2018 and vegetation that has grown in the right-of-way since then—tasks that will take several weeks to complete. Major earth-disturbing work in the JNF, such as grading, trenching, and boring underneath streams, will commence thereafter and take roughly three months to complete. But those tasks become increasingly difficult to complete safely after the onset of winter conditions, due to shorter work days, destabilization of work areas due to the freeze-thaw cycle, and winter storms. In Mountain Valley's experience, if these major earth-disturbing tasks are not substantially complete before early November, they cannot be completed until spring under ordinary conditions. Consequently, unless any stay is lifted by July 26, 2023, Mountain Valley likely will not be able to achieve an in-service date before Spring 2024.

13. As part of its approved construction plans, Mountain Valley installed approved erosion control devices (ECDs) to prevent or minimize the erosion of soil into streams and wetlands. While the site is disturbed during construction, ECDs must be regularly inspected to ensure proper performance and prevent introduction of excess soil to streams and wetlands. Most ECDs are designed to perform optimally over a limited period of time, so the longer the construction site remains disturbed, the more frequently these ECDs will need to be replaced, and the greater the risk to rivers and streams and threatened and endangered aquatic species that may be present.

14. After the Federal Energy Regulatory Commission (FERC) issued stop-work orders in 2018 and 2019, and again after this Court issued decisions in January and February 2022 vacating the 2020 Biological Opinion and Incidental Take Statement and the 2021 authorization from USFS and BLM to work in the JNF, Mountain Valley maintained the MVP Project area in a disturbed, but stabilized, condition until FERC allowed work to resume. Mountain Valley incurred roughly \$20 million per month to maintain the MVP Project area in this temporarily stabilized condition, while making no progress toward the completion of construction. The increased costs were required to employ a work force that focuses solely on maintaining ECDs, oversee that work force, and extend leases in laydown yards.

15. Should this Court stay the Project's JNF authorizations, Mountain Valley would expect to incur roughly \$3 million on a monthly basis to maintain ECDs.

16. Mountain Valley expects that FERC would not order Mountain Valley to implement final restoration of currently disturbed portions of the MVP Project Area during the period of any judicial stay, because implementing final restoration would create greater risk to the environment in the near term. Final restoration would involve:

- The transport of substantial earthmoving equipment to and from the MVP Project area;
- Significant land-disturbing work, such as the backfilling of open trench, contouring and regrading of disturbed areas, and the removal of temporary facilities, such as access roads, bridges, contractor yards and temporary ECDs, and installation of final ECDs; and
- Seeding disturbed areas with final vegetative cover.

17. If FERC were to order Mountain Valley to implement final restoration in areas remaining under construction, it would cost Mountain Valley at least as much to implement those measures and then undo them later as it would to continue to maintain temporary ECDs for the duration of a judicial stay.

18. When the MVP Project is placed in service, Mountain Valley will earn \$40-\$50 million per month shipping gas. Each month the in-service date for the

pipeline is delayed, Mountain Valley will lose the benefit of that revenue. And Mountain Valley has already sunk billions of dollars into the MVP Project.

V. A Stay Would Harm the Public Interest.

19. Based on an economic analysis updated in February 2021, after becoming operational the MVP Project will generate approximately \$45 million per year in ad valorem taxes to local taxing jurisdictions.

20. Delaying the MVP Project will unnecessarily postpone the public benefits that the pipeline will provide and unnecessarily increase the costs of completing the work and result in the loss of substantial revenue to Mountain Valley.

21. A stay would also create greater risk to the environment. The construction plan for the MVP Project carefully sequences actions to minimize the amount of time that ground is disturbed—the condition that creates the risk of erosion and sedimentation. Temporary ECDs are employed during the clearing, grubbing, and grading of the right-of-way to minimize potential water quality impacts from stormwater running off disturbed ground. But these measures are only temporary. Final restoration, which includes replacing and contouring soils, discing or tilling topsoil that was compacted by heavy equipment traveling the right-of-way, forming permanent waterbars (i.e., small earthen berms across the right-of-way) to divert water flowing down slopes, and reestablishing vegetative

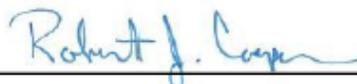
cover (i.e., applying mulch and planting seeds, saplings, or shrubs), occurs only after the pipeline is installed. The overarching objective is to implement final restoration as quickly as practicable to minimize the time disturbed soils are exposed to the erosive forces of rain, snow, and wind.

22. A stay would interrupt the construction sequence and leave the right-of-way in the JNF in a temporarily stabilized but active construction site for months longer than currently planned. To complete the construction at a later date, heavy construction equipment will need to travel through the right-of-way from the nearest access road. This convoy of equipment would re-compact the soil, flatten waterbars, and trample young vegetation. Parts of the right-of-way will need to be regraded (or left ungraded) to allow heavy equipment travel. Thus, permanent restoration would be delayed for these sections of the right-of-way for months. Making matters worse, temporary construction support infrastructure, such as access roads, bridges, and contractor yards would need to remain in place or be reconstructed during the delay. These temporary facilities will be restored when construction is complete, but they will have to remain in place for the duration of any stay.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on July 10, 2023



Robert J. Cooper

Exhibit 2

Declaration of Justin Macken, Senior
Vice President of Gas Systems
Planning and Engineering, Equitrans
Midstream Corporation
(July 7, 2023)

No. 23-1592

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

THE WILDERNESS SOCIETY,
Petitioner,

v.

UNITED STATES FOREST SERVICE, ET AL.,
Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,
Intervenor.

DECLARATION OF JUSTIN MACKEN

I, Justin Macken, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Senior Vice President of Gas Systems Planning and Engineering at Equitrans Midstream Corporation, one of Mountain Valley's partners, since it was formed in 2018. From 2008 to 2018, I worked for at a subsidiary of EQT Corporation that was part of the business that EQT spun off to form Equitrans Midstream Corporation in late 2018.

2. I am responsible for leading the Engineering, Gas Systems Planning, Gas Control, and Gas Management functions at Equitrans Midstream Corporation.

Among other things, I am responsible for ensuring our customers can transport gas within the bounds of our contracts on our various gathering and transmission systems on a daily basis. As a result, I am knowledgeable of the capabilities of our systems and the market dynamics downstream of our systems.

3. I have reviewed the statements made by Gregory M. Lander, a consultant on behalf of the Wilderness Society, and submit this declaration to address some of the inaccuracies, omissions, and misstatements contained therein.

4. Mr. Lander's basic premise is that Mountain Valley Pipeline (MVP), when completed, will not increase the supply of gas to Zone 5 (Zone 5 stretches from the Maryland/Virginia border to the South Carolina/Georgia border) because the Transco Pipeline is hydraulically and/or contractually constrained. This conclusion is incorrect for a number of reasons addressed below.

5. To begin, Lander's basic statements in Paragraph 8 of his declaration contain glaring omissions that undermine his conclusion. Lander ignores the basic facts that 5 of the 7 shippers on MVP's 2 million Dth/d capacity are the same entities that have contractual capacity on Transco, representing approximately 3 million Dth/d. These shippers will be able to take immediate advantage of their respective share of capacity available through MVP in order to meet the regional demand for natural gas with greater reliability and better pricing than is currently available.

6. Second, Mr. Lander ignores the fundamental market forces that will affect even those shippers on Transco that do not have MVP capacity. Specifically, those shippers will be incentivized to purchase MVP-delivered natural gas, because it will be immediately available at lower prices and greater quantities than natural gas currently supplied by other supply basins, as MVP gas is able to bypass upstream capacity bottlenecks on Transco and deliver gas directly to an underserved market.

7. Customers will see an immediate benefit from the presence of MVP natural gas into Zone 5 this winter as natural gas delivered from MVP will not be subject to the same competitive market forces, including higher prices and constrained availability caused by the diversion of natural gas away from Zone 5 to other locations during extreme weather events as demonstrated during Winter Storm Elliott. See <https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=63276e03-87af-42d5-b2c2-97293fc5fe83>. In simple terms, regional gas consumers will no longer be at the proverbial end of the pipe and will not have to compete or pay for more expensive constrained gas that can be sold elsewhere while also receiving better pricing and increased reliability due to the presence of MVP delivered gas.

8. The above was demonstrated by a \$1.72/dekatherm drop in Transco Zone 5 January 2024 natural gas futures in commodity markets immediately after the passage of the Fiscal Responsibility Act, which included the provisions to

complete the construction of MVP and that would, by extension, provide incremental regional supply during the coming winter months.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on July 7, 2023

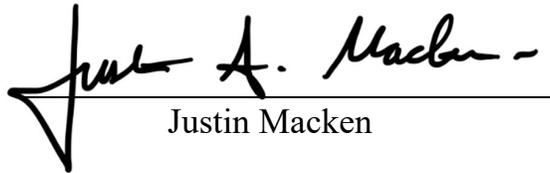

Justin Macken

Exhibit 3

Declaration of Nelson Peeler, Senior
Vice President, Transmission and Fuels
Strategy and Policy, Duke Energy
Carolinas, LLC and Duke Energy
Progress, LLC (May 3, 2023)

No. 23-1384

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

APPALACHIAN VOICES, ET AL.,
Petitioners,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL.,
Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,
Intervenor.

DECLARATION OF NELSON PEELER

I, Nelson Peeler, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Senior Vice President, Transmission and Fuels Strategy and Policy, for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (“Companies”). In that role, I lead the organization responsible for the Companies’ fuel supply, system optimization and long-term transmission planning. I have worked at Duke Energy since 1988.

2. The Companies fully support the Mountain Valley Project (“Project”), which will address existing and growing demand for incremental gas supply in the

Mid-Atlantic and Southeast regions of the United States. When completed, the Project will provide timely and affordable access to domestically produced natural gas that will serve the Companies' power-generation facilities and ultimately benefit our customers. As explained below, completion of the Project with due haste is critical and in the public interest.

3. The Companies are regulated utilities providing electric service to 4.53 million customers over a 56,000-square-mile area in North and South Carolina, with more than 30,000 megawatts of electric generating capacity. The Companies have experienced significant growth in natural gas demand for power generation and expect that trend to continue as coal generation is retired and we transition to increased renewable generation.

4. Today, the Companies face a fuel security challenge that would be improved by completion of the Project. Transco Zone 5, the interconnect point of the Project, is the primary fuel supply source for the Companies and is deficient in physical natural gas deliverability for the region. Over recent history the daily price for delivered natural gas in Transco Zone 5 has continuously been among the highest in the nation. For example, during a cold weather event known as Winter Storm Elliott on December 22, 2022, the midpoint gas price in Transco Zone 5 was \$62.33

per MMBtu, yet Appalachia's average price was \$6.53 per MMBtu.¹ On that same day, natural gas prices to the south in Transco Zone 4 were \$8.22 per MMBtu, and prices to the north in Transco Zone 6 were \$32.62 per MMBtu, further demonstrating that the Transco Zone 5 market specifically has a need for incremental supply that can be met by the Project.² Lack of supply availability during peak events results in tangible cost implications to customers in North Carolina and South Carolina.

5. In the future, the Companies anticipate that natural gas demand will increase within the Transco Zone 5 area and throughout the region. Incremental access to Appalachian natural gas supply is the most cost-effective way to meet the demand outlined in the Companies' resource plans. If incremental access to Appalachian natural gas supply is not possible, the Companies will need to access more costly natural gas supply from the south or rely on alternate fuel supply.

6. New natural gas electric generation is required in the Carolinas to meet increasing load, to support reliability, to satisfy our integrated resource plans and to keep the Companies on track to achieve our public commitment and North Carolina's mandate to achieve carbon neutrality by 2050. Natural gas power generation provides a bridge to the onboarding of increased renewable power resources while also ensuring the integrity of the electric grids throughout the United

¹ S&P Global Commodity Insights, *Platts Gas Daily*, Final Daily Price Survey – Platts Locations (\$/MMBtu), Volume 39, Issue 245 (December 22, 2022).

² *Id.*

States. Specific to the Companies, new natural gas generation achieves least cost and reliability objectives to support retirement of aging coal facilities, which are not only greater carbon emitters nearing the end of their economic lives, but which are also contributors to increased expense and volatility in our fuel costs, which are passed on to customers. Moreover, incremental natural gas capacity will enable a prudent deployment of increasing amounts of renewable resources and provide the dispatchable generation to reliably leverage those green facilities. Increased infrastructure allowing Appalachian Gas to flow into the Mid-Atlantic can play a key role in enabling the Companies' generation transition while supporting the communities and businesses that rely upon us for their energy needs today and in the future.

7. To address its existing generation fleet's need for Appalachian natural gas supply, the Companies have entered into a definitive agreement with a third party that relies on the services to be provided by the Project. This agreement provides access to firm, lower-cost, Appalachian supply that would help mitigate high levels of Transco Zone 5 cost exposure for the Companies' customers. Moreover, without timely access to the Project's services, the Companies would experience elevated fuel assurance and reliability risks, as well as an increased risk of delayed coal retirements.

8. For these reasons, the Companies support the Mountain Valley Project and its completion without modification or further delay.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on May 3, 2023



Nelson Peeler

Exhibit 4

Declaration of Scott Teel, Senior Vice
President, Commercial Operations,
Southern Company Services, Inc.
(Apr. 21, 2023)

DECLARATION OF SCOTT TEEL

1. My name is Scott Teel. I make this Declaration under penalty of perjury pursuant to 28 U.S.C. § 1746 and state the following.
2. I presently serve as Senior Vice President, Commercial Operations, for Southern Company Services, Inc. (“SCS”).
3. SCS is the service company for the operating company subsidiaries of Southern Company, a public utility holding company originally organized under the Public Utility Holding Company Act of 1935 (“PUHCA”). The retail operating companies, which include Alabama Power Company, Georgia Power Company, and Mississippi Power Company, serve more than 4.4 million retail electricity customers within specified franchised electric service territories in portions of Alabama, Georgia and Mississippi, as well as wholesale customers within those regions. The fourth operating company, Southern Power Company, serves wholesale electric customers throughout the United States.
4. In my role as Senior Vice President, Commercial Operations, I hold numerous responsibilities. Chief among them is my responsibility for the activities of fleet operations and power trading, the division of SCS responsible for the dispatch of the Southern power pool. In connection with this activity, I hold ultimate responsibility for the fuel procurement and optimization responsibilities that SCS carries out as agent for the operating companies.
5. Prior to assuming my role as Senior Vice President, Commercial Operations, I served as Chief Financial Officer for Gulf Power Company, an electric utility based in Pensacola, Florida. I joined Southern Company in 1999 with responsibility for natural gas trading and operations. Prior to that time, I held positions at Sonat, Inc., where I managed a regional natural gas marketing and trading group, and also at Ernst & Young.
6. Over the last two years, the demand for natural gas has risen, resulting in substantial price increases and higher volatility in the marketplace, and on a more sustained basis than perhaps experienced sporadically in preceding years.
7. Because of the locations of their respective service territories, the Southern Company operating companies (through SCS acting as their agent) hold capacity on a number interstate pipelines, including Transcontinental Gas Pipe Line’s interstate pipeline system, and competes with others for both additional capacity rights as well as natural gas volumes needed by the operating companies’ gas-fired power plants for electricity production.
8. When completed, the Mountain Valley Pipeline Project will allow for the delivery of additional volumes of natural gas into Transcontinental Gas Pipe Line. This will enhance access to a critical source of reliable natural gas supply and enable gas consumers in the Eastern United States to rely on supply sources closer to them, alleviating their need to rely on sources in the South (such as from the Gulf of Mexico and the Southwestern regions) and freeing up those suppliers for use by consumers in the Southeast like the Southern operating companies. Such

an expansion will benefit the areas Southern's operating companies serve and help dampen the price increases and volatility being witnessed today.

9. I understand that Mountain Valley Pipeline is more than 90 percent complete, and absent delay, is scheduled to be in service for the winter 2024 heating season. In my view, and based on my experience, the availability of this resource will benefit consumers by fostering a lower-cost environment, and will increase the energy security of the referenced areas going forward.

Executed this 21st day of April, 2023



Scott Teel

Exhibit 5

Declaration of Paul W. Nester,
President and CEO, Roanoke Gas
Company (May 4, 2023)

No. 23-1384

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

APPALACHIAN VOICES, ET AL.,
Petitioners,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL.,
Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,
Intervenor.

DECLARATION OF PAUL W. NESTER

I, Paul W. Nester, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the President and CEO of the Roanoke Gas Company (“Roanoke Gas”). I have worked at Roanoke Gas since 2012.

2. As President and CEO, I am responsible for providing business strategy and overall management of Roanoke Gas’ natural gas distribution operations, finances and regulatory affairs. I served as the Company’s Chief Financial Officer from May of 2012 to January 2020.

3. Roanoke Gas is a local distribution company serving approximately 63,500 residential, commercial, and industrial customers in the greater Roanoke Valley of southwest Virginia. Roanoke Gas has provided natural gas service to this region for over 139 years, beginning in 1883.

4. This region, Roanoke Gas, and its customers need the Mountain Valley Pipeline Project (“Project”) to be completed.

5. The Project, in its current uncompleted state, is an unfortunate eyesore for our community and this region. The visible effects of large quantities of above ground pipe, pipeline right-of-way in various stages of temporary restoration, and dormant laydown and construction yards cause concern from our residents and community leaders. Further, business travelers, tourists, and prospective economic developers are put off by the present state of the Project and the obvious lack of forward construction activity. This stands in stark contrast to the many areas of the Project that are in final restoration, where the pipeline is buried, vegetation is high and lush, and the right-of-way blends into the surrounding environment. All of this negativity can be erased and forgotten by completing the Project.

6. Moreover, completing the Project as soon as possible is in the best interests of Roanoke Gas customers and the greater southwest Virginia region.

7. Roanoke Gas has been a shipper on the Project since October 2015 and has subscribed to the Project’s firm transportation capacity in order to meet its

customers' increasing demand for natural gas. The East Tennessee and Columbia KA/VA interstate pipelines, that presently serve Roanoke Gas, continue to lack attainable firm capacity.

8. Since October 2020, Roanoke Gas has added 1,597 new customers. Approximately 13% of these new customers are commercial and industrial. Project completion is vital to Roanoke Gas' ability to provide long-term, reliable energy supplies at a reasonable cost to the residents and businesses in the greater Roanoke Valley.

9. Two of the Project's interconnects (i.e., taps) are designed to deliver gas directly into the Roanoke Gas distribution system when the Project is completed. One of these taps will serve Franklin County, Virginia, which currently lacks access to natural gas. The Project is Franklin County's only viable opportunity for natural gas.

10. The lack of additional natural gas supply, which is necessary for most commercial and industrial applications, continues to constrain economic growth opportunities in southwest Virginia. The Summit View Business Park in Franklin County cannot attract the business and industry desired without completion of the Project. Further, the greater Roanoke Valley region is disadvantaged in the highly competitive arena of economic development because the Project is not completed. The Mountain Valley Pipeline can deliver the natural gas supply necessary to

change this circumstance and provide the economic development opportunities this region so desperately needs.

11. Finally, completing the Project will insulate Roanoke Gas consumers from natural gas price volatility.

12. For example, in 2021, Winter Storm Uri caused extreme price volatility that directly impacted Roanoke Gas customers. The natural gas used in the Roanoke Valley is sourced from Gulf Coast and Midwestern production areas at wholesale prices. These costs are passed directly to the customer, without any markup or profit. To meet local demand during Winter Storm Uri, Roanoke Gas' wholesale natural gas prices surged past \$21 per dekatherm, adding \$3 million in cost. Comparatively, parts of Texas and Oklahoma experienced prices up to \$600 per dekatherm. Had the Mountain Valley Pipeline been in-service as originally planned, Roanoke Gas customers would not have been forced to absorb such significant cost increases to heat their homes and operate their businesses.

13. As a result of the global events of early 2022, price volatility and supply uncertainty escalated to levels not seen since the pre-shale revolution, especially in the areas where Roanoke Gas currently sources its natural gas supply. Roanoke Gas' 2022 summer storage and 2022-2023 winter season natural gas supplies were approximately 120% more expensive than the most recent year. Customers bore the entirety of this increase. Roanoke Gas estimates that access to

the Appalachian Basin via Mountain Valley Pipeline would provide greater price stability and lower the average Roanoke Gas customer's gas cost by at least 20%.

14. The risk of large price spikes or supply uncertainty from a Uri-like event or global disruption remains present until the Project is completed and makes available additional natural gas supplies to the Roanoke Valley.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on May 4, 2023



Paul W. Nester

Exhibit 6

Declaration of Keith Shoemaker, Vice
President, Commercial, EQT Energy,
LLC (May 3, 2023)

No. 23-1384

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

APPALACHIAN VOICES, ET AL.,
Petitioners,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL.,
Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,
Intervenor.

DECLARATION OF KEITH SHOEMAKER

I, Keith Shoemaker, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Vice President, Commercial, for EQT Energy, LLC (“EQT Energy”). EQT Energy is a natural gas marketing company that is focused on the purchase and sale of natural gas produced in the Appalachian Basin. Its parent company, EQT Corporation (“EQT”), is the largest producer of natural gas in the United States. EQT Energy provides marketing services and pipeline capacity management services primarily for the benefit of EQT.

2. As a major producer of natural gas, EQT requires pipeline “takeaway capacity” to bring the gas that it has extracted to market. Insufficient takeaway capacity could cause significant fluctuations in EQT Energy’s realized prices for natural gas. The Appalachian Basin has recently experienced periods in which natural gas production has surpassed local takeaway capacity, and when this occurs, it may result in lower prices received by producers or wells being “shut in.” EQT Energy requires significant Appalachian Basin takeaway capacity to ensure that it can keep pace with its evolving drilling plans and gas production.

3. For that and other reasons, EQT Energy is a foundation shipper on the Mountain Valley Pipeline Project (the “Project”) and has subscribed to 1,165,000 dekatherms per day of firm transportation capacity. EQT Energy subscribed to such Project capacity based on evidence of strong long-term demand for additional transportation capacity and gas supply in the markets that the Project will serve.

4. That need for incremental gas supply continues to exist and, accordingly, the Project remains an important part of EQT’s goals regarding responsible energy development. Construction of the Project is substantially complete and shippers like EQT are counting on the contracted capacity to meet the growing need for natural gas in the United States and abroad.

5. Based on projected growth and demand for access to new gas supplies, it is important that the Project be completed and placed into service as soon as

possible. Capacity on the Project is needed to ensure that (i) EQT Energy can deliver the gas EQT has extracted to market and (ii) EQT Energy can meet its customers' need for natural gas and satisfy its delivery obligations.

6. The gas supply offered by the Project is particularly crucial because capacity will not be available on the Atlantic Coast Pipeline, a competing pipeline project that was cancelled in July 2020.

7. The transportation service made available by the Project will also help to provide additional infrastructure necessary to improve gas supply to markets in the Mid-Atlantic and Southeast regions of the United States. This will increase service reliability and will ultimately reduce the excessive prices that end users often pay for natural gas. Completion of the Project and the transportation service it will provide will undeniably help to remedy this situation.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on May 3, 2023

DocuSigned by:
Keith Shoemaker
989AD52078B14C8...

Keith Shoemaker

Exhibit 7

Declaration of Rose M. Jackson,
Director – Fuel Commodities,
Dominion Energy Services, Inc.
(May 5, 2023)

IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPALACHIAN VOICES; WILD VIRGINIA; WEST VIRGINIA RIVERS COALITION; PRESERVE GILES COUNTY; PRESERVE BENT MOUNTAIN, a chapter of Blue Ridge Environmental Defense League; WEST VIRGINIA HIGHLANDS CONSERVANCY; INDIAN CREEK WATERSHED ASSOCIATION; SIERRA CLUB; CHESAPEAKE CLIMATE ACTION NETWORK; AND CENTER FOR BIOLOGICAL DIVERSITY,

Petitioners,

v.

No. 23-1384

UNITED STATES DEPARTMENT OF THE INTERIOR; DEB HAALAND, in her official capacity as Secretary of the U.S. Department of the Interior; UNITED STATES FISH AND WILDLIFE SERVICE, an agency of the U.S. Department of Interior; MARTHA WILLIAMS, in her official capacity as Director of the U.S. Fish and Wildlife Service; and CINDY SCHULZ, in her official capacity as Field Supervisor, Virginia Ecological Services, Responsible Official,

Respondents,

and

MOUNTAIN VALLEY PIPELINE, LLC,

Intervenor.

DECLARATION OF ROSE M. JACKSON
IN SUPPORT OF
OPPOSITION TO PETITIONERS' MOTION FOR STAY

I, Rose M. Jackson, declare and state as follows:

1. My name is Rose M. Jackson. I am of sound mind and competent to make this declaration and swear to the matters herein. I am over the age of 21 years and have never been convicted of a felony or crime of moral turpitude. The statements herein are true and correct. If I were called upon to testify to these facts, I could and would competently do so.

2. I am employed by Dominion Energy Services, Inc., as Director – Fuel Commodities. I am responsible for managing the group that supports the gas supply and capacity management functions for Public Service Company of North Carolina, Incorporated, d/b/a Dominion Energy North Carolina (“PSNC”), and its affiliate Dominion Energy South Carolina, Inc., formerly South Carolina Electric & Gas Company. Our group’s specific responsibilities include planning and procurement of gas supply and pipeline capacity, nominations and scheduling related to natural gas transportation and storage services on interstate pipelines and PSNC’s system, gas cost accounting, state and federal regulatory issues concerning supply and capacity, asset and risk management, and gas transportation administration.

3. PSNC is a local distribution company primarily engaged in the purchase, transportation, distribution, and sale of natural gas to approximately 640,000 customers in North Carolina. (The number of PSNC customers has been increasing by more than 2% per year.) PSNC operates a natural gas pipeline system for the transportation, distribution, and sale of natural gas within a service territory covering all or parts of twenty-eight North Carolina counties. Approximately half of the Company’s natural gas throughput consists of firm sales service to residential and small- and

medium-sized commercial customers. The remainder of the Company's throughput consists of deliveries to industrial or large commercial customers, including electric generation.

4. Transcontinental Gas Pipe Line Company, LLC ("Transco") is the only interstate pipeline to which PSNC's system is directly connected at this time, and most of PSNC's overall firm transportation and storage capacity is obtained from Transco.

5. Segmentation allows a shipper on an interstate pipeline to double the amount of its contracted-for capacity by scheduling deliveries of natural gas from both directions. "Forward haul" capacity is delivered in the same direction as the primary contractual path; "backhaul" capacity is delivered in the opposite direction from the primary contractual path. "Primary firm" service is given the highest scheduling priority by the interstate pipeline; "secondary firm" service is outside of the primary contractual path and receives lower scheduling priority. Secondary firm service is therefore less reliable than primary firm service.

6. PSNC has used segmentation of the Transco firm transportation capacity to schedule backhaul deliveries of gas, on a secondary firm basis, from Columbia Gas Transmission, LLC, Cove Point LNG, LP, Eastern Gas Transmission and Storage, Inc., East Tennessee Natural Gas LLC ("East Tennessee")/Saltville Gas Storage Company L.L.C., Pine Needle LNG Company, LLC, and Texas Gas Transmission, LLC —natural gas storage facilities and connecting pipelines located downstream of PSNC's system. Increasingly, however, PSNC has been unable to use segmentation to backhaul a portion of its Transco capacity due to bidirectional gas flows on the Transco system. In July 2019, Transco implemented Priority of Service tariff changes that further restrict PSNC's use of backhaul capacity via segmentation.

7. To serve projected firm growth on its system, in December 2017, PSNC entered into precedent agreements for firm transportation capacity on the Mountain Valley Pipeline ("MVP") Mainline Project ("Mainline"), and MVP's Southgate Project ("Southgate"). PSNC subscribed to

300,000 dekatherms per day (“Dth/d”) on the Southgate Project for an initial term of 20 years. The majority of that flow would come from the Mainline, on which PSNC has subscribed to transport 250,000 Dth/d for an initial term of 20 years; the other 50,000 Dth/d would consist of primary firm, forward-haul deliveries directly from East Tennessee through a new interconnection with MVP.

8. At the time PSNC entered into the precedent agreements with MVP, the Mainline was expected to be completed and in service by the end of 2018 and Southgate was expected to be placed into service by the end of 2020. Since then, MVP has experienced numerous delays on the Mainline, including delays resulting from federal permitting litigation such as this case, and the project has not been completed. Due to these delays, MVP has not commenced construction on Southgate because its certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission conditions such construction on MVP obtaining the necessary federal permits for the Mainline.

9. Beginning with the winter of 2019-2020, PSNC has experienced shortfalls of assets available to serve forecasted firm peak-day demand and each year has found it necessary to acquire short-term peaking services for the winter season in order to make up these shortfalls. This past winter of 2022-2023, PSNC purchased a total of 61,000 Dth/d in short-term peaking services. “Short-term peaking services” are contracts for a specified volume of supply for a limited number of days with a cost premium. PSNC currently employs short-term peaking services as a bridge, or stop-gap measure, to cover its shortfalls until additional interstate pipeline capacity becomes available. However, as the demand for incremental deliverability resources increases, the availability of these short-term resources is uncertain.

10. For the foreseeable future, PSNC has projected even greater capacity shortfalls from demand forecasts calculated using a statistical modeling program. The model shows an increase in forecasted firm peak-day demand of approximately 20,000 Dth/d each year over the next ten years.

11. The Mainline and Southgate Projects will provide critically needed additional capacity, increase reliability, resiliency, and direct access to lower-cost natural gas produced in the Marcellus and Utica shale plays, contribute to optionality of natural gas supply sources, and allow PSNC to replace secondary firm backhaul deliveries with primary firm forward-haul deliveries. The two pipeline projects thus fulfill the growing need for infrastructure that is necessary for PSNC to serve increasing demand in North Carolina and maintain reliable service to its customers.

12. Completion of MVP will also increase competition in the market for interstate gas transportation services. At present, Transco is the only interstate pipeline serving PSNC's service territory.

13. The reliance on Transco as the sole interstate pipeline connection has become increasingly problematic for PSNC, as exemplified by operational issues experienced by PSNC during Winter Storm Elliott in December 2022 when pressures dropped significantly below historical operating pressures at one of PSNC's major takeoff points with Transco. This impaired PSNC's ability to receive gas off the Transco system.

14. Without Mainline and Southgate, PSNC and other companies serving North Carolina will be competing to meet increasing demands on the same limited supply, likely leading to higher costs and an increasing the possibility of service outages in the state.

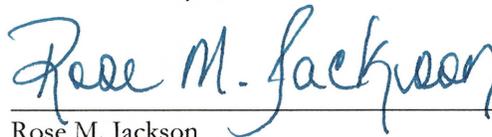
15. PSNC is regulated by the North Carolina Utilities Commission ("NCUC"), a state agency charged with regulating natural gas utilities, including reviewing their need for interstate pipeline capacity.

16. More than four years ago the NCUC expressed "serious concern" about the delays experienced by MVP, recognizing that "PSNC may have to go to the short-term market for considerable volumes for the next several winters," and that "[a] reliance on short-term solutions raises

serious questions about both their cost and their availability.”¹ A more recent NCUC order recognized that “[t]he design-day requirements from 2021-2022 forward are increasing by approximately 20,000 dekatherms (dts) every year, and the reserve margin is moving to a negative range during the same time frame,” and asked PSNC to explain its plans in the event the Mainline and Southgate Projects “are stalled and not in service prior to the 2021-2022 winter season”²

17. The completion of the Mainline and Southgate Projects are essential for PSNC to obtain needed natural gas to supply its customers.

18. This declaration is made in accordance with 28 U.S.C. § 1746 and I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed in Cayce, South Carolina, on May 5, 2023.



Rose M. Jackson
Director – Fuel Commodities
Dominion Energy Services, Inc.
220 Operation Way, MC J66
Cayce, SC 29033

¹ See *In the Matter of Application of Public Service Company of North Carolina, Inc. for Annual Review of Gas Costs Pursuant to N.C.G.S. § 62-133.4(c) and Commission Rule R1-17(k)(6)*, Order on Annual Review of Gas Costs at 13, Docket No. G-5, Sub 591 (N.C. Util. Comm’n Dec. 6, 2018)) (discussing increasing use of secondary capacity and stating that “[t]he delays being experienced by ACP and MVP are a matter of serious concern.”). A true and correct copy of this order is attached hereto as Exhibit A.

² See *In the Matter of Application of Public Service Company of North Carolina, Inc., for Annual Review of Gas Costs Pursuant to G.S. 62-133.4(c) and Commission Rule R1-17(k)(6)*, Order Cancelling Expert Witness Hearing at Attachment A, Docket No. G-5, Sub 622 (N.C. Util. Comm’n Aug. 14, 2020). A true and correct copy of this order is attached hereto as Exhibit B.

Exhibit H

Federal Energy Regulatory Commission, Order Authorizing All Construction
Activities (June 28, 2023)

183 FERC ¶ 61,221
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Mountain Valley Pipeline, LLC

Docket Nos. CP16-10-000
CP21-57-000

ORDER AUTHORIZING ALL CONSTRUCTION ACTIVITIES

(Issued June 28, 2023)

1. On June 26, 2023, Mountain Valley Pipeline, LLC (Mountain Valley) requested Commission approval to move forward with all remaining construction associated with the Mountain Valley Pipeline Project.

I. Background

2. On October 13, 2017, the Commission issued Mountain Valley a certificate of public convenience and necessity authorizing the construction and operation of the Mountain Valley Pipeline Project, a new interstate pipeline system designed to provide up to 2,000,000 dekatherms per day of firm natural gas transportation service from Wetzel County, West Virginia, to Transcontinental Pipe Line Company, LLC's Compressor Station 165 in Pittsylvania County, Virginia.¹ Mountain Valley commenced construction of the project in February 2018.²

3. In July 2018, the U.S. Court of Appeals for the Fourth Circuit vacated the U.S. Forest Service's record of decision and the Bureau of Land Management's right-of-way grant that authorized the project to cross the Jefferson National Forest.³ In response,

¹ *Mountain Valley Pipeline, LLC*, 161 FERC ¶ 61,043 (2017), *order on reh'g*, 163 FERC ¶ 61,197 (2018), *aff'd sub. nom. Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199 (D.C. Cir. Feb. 19, 2019) (unpublished).

² See Mountain Valley's Weekly Status Report Nos. 14 and 15 (filed February 7 and 15, 2018, respectively) (construction did not commence until after February 2, 2018).

³ *Sierra Club, Inc. v. U.S. Forest Serv.*, 897 F.3d 582 (4th Cir. 2018). Subsequently, in January 2022, the Fourth Circuit vacated the U.S. Forest Service's renewed record of decision and the Bureau of Land Management's renewed right-of-way grant. *Wild Va. v.*

Docket Nos. CP16-10-000 and CP21-57-000

- 2 -

Commission staff prohibited construction between mileposts 196.0 and 221.0, a 25-mile exclusion zone encompassing the two watersheds within which there is 3.5 miles of pipeline right-of-way that crosses the Jefferson National Forest.⁴ Subsequently, in December 2020, the Commission reduced the exclusion zone and allowed construction to resume between mileposts 201.6 to 218.6, based on its finding that construction in that area would not contribute sediment to any portion of the Jefferson National Forest.⁵

4. In April 2022, the Commission issued an order amending Mountain Valley's certificate, approving, in part, a change in the crossing method for 183 waterbodies and wetlands from open-cut to trenchless.⁶ In the order, the Commission explained that construction associated with the amendment could not proceed until: (1) Mountain Valley obtained authorization from the U.S. Army Corps of Engineers (Corps) to conduct the remaining open-cut crossings;⁷ and (2) Endangered Species Act consultation for the amendment project was complete and the U.S. Fish and Wildlife Service (FWS) issued a new or revised Biological Opinion for the Mountain Valley Pipeline Project.⁸ The order

U.S. Forest Serv., 24 F.4th 915 (4th Cir. 2022).

⁴ *Mountain Valley Pipeline LLC*, Docket No. CP16-10-000 (August 29, 2018) (delegated order) (Director of OEP's August 29, 2018 Partial Authorization to Resume Construction Order).

⁵ *Mountain Valley Pipeline, LLC*, 173 FERC ¶ 61,252 (2020).

⁶ *Mountain Valley Pipeline, LLC*, 179 FERC ¶ 61,013 (2022).

⁷ In November 2020, the Fourth Circuit issued a stay of Mountain Valley's Nationwide Permit 12 verifications, issued by the Corps for the project. *Sierra Club v. U.S. Army Corps of Eng'rs*, Nos. 20-2039 and 20-2042 (4th Cir. Nov. 9, 2020) (order granting stay); *Sierra Club v. U.S. Army Corps of Eng'rs*, 981 F.3d 251 (Dec. 1, 2020) (accompanying opinion). The Corps' Nationwide Permit 12 verifications had authorized Mountain Valley, pursuant to section 404 of the Clean Water Act, to cross waters of the United States using an open-cut method, which was the crossing method approved in the Certificate Order. On March 4, 2021, Mountain Valley filed an individual permit application with the Corps for the remaining open-cut crossings.

⁸ FWS issued a Biological Opinion for the Mountain Valley Pipeline Project in November 2017. The 2017 Biological Opinion was stayed by the Fourth Circuit in October 2019. *Wild Va., Inc. v. Dep't of the Interior*, No. 19-1866 (4th Cir. Oct. 11, 2019) (order granting stay and holding case in abeyance). Following reinitiated consultation, FWS issued a revised Biological Opinion for the project in September 2020. In February 2022, the Fourth Circuit vacated the 2020 Biological Opinion. *Appalachian Voices v. U.S. Dep't of the Interior*, 25 F.4th 259 (4th Cir. 2022).

Docket Nos. CP16-10-000 and CP21-57-000

- 3 -

further noted that before additional work could proceed in the Jefferson National Forest, the Commission must lift the existing exclusion zone.⁹

5. On February 28, 2023, FWS issued a new Biological Opinion and Incidental Take Statement for the Mountain Valley Pipeline, as amended, thus concluding ESA consultation.

6. On May 15, 2023, the U.S. Forest Service issued a record of decision and, on June 20, 2023, the Bureau of Land Management issued a right-of-way grant, authorizing the project to cross the Jefferson National Forest.

7. On June 3, 2023, President Biden signed into law the Fiscal Responsibility Act of 2023.¹⁰ Section 324 of the Act, entitled “Expediting Completion of the Mountain Valley Pipeline,” ratifies and approves all authorizations issued pursuant to Federal law necessary for the construction and operation of the Mountain Valley Pipeline Project, and directs the relevant agencies to maintain those authorizations.¹¹ Section 324 further provides that it “supersedes any other provision of law (including any other section of th[e] Act or other statute, any regulation, any judicial decision, or any agency guidance) that is inconsistent with the issuance of any authorization, permit, verification, biological opinion, incidental take statement, or other approval for the Mountain Valley Pipeline.”¹²

8. On June 23, 2023, the Corps issued an individual permit for the Mountain Valley Pipeline, authorizing all remaining open-cut waterbody crossings.¹³

II. Discussion

9. As noted, pursuant to section 324 of the Fiscal Responsibility Act of 2023, all issued Federal authorizations for the Mountain Valley Pipeline Project have been ratified by Congress. We find that includes the authorizations subject to the remand in the U.S. Court of Appeals for the District of Columbia Circuit’s May 26, 2023 decision in

⁹ *Mountain Valley Pipeline, LLC*, 179 FERC ¶ 61,013 at P 150, n.268.

¹⁰ Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat. 10 (2023).

¹¹ *Id.* § 324(c)(1)-(2), 137 Stat. at 47.

¹² *Id.* § 324(f), 137 Stat. at 48.

¹³ The Corps’ permit also approves the trenchless crossing of five waterbodies that are subject to section 10 of the Rivers and Harbors Act.

Docket Nos. CP16-10-000 and CP21-57-000

- 4 -

Sierra Club v. FERC.¹⁴ Accordingly, we find that no further action in response to the remand is necessary and none will be forthcoming.

10. Accordingly, Mountain Valley has all necessary authorizations for the Mountain Valley Pipeline Project. Mountain Valley is therefore authorized to proceed with all remaining construction associated with the project. Specifically, Mountain Valley is authorized to proceed with construction in the Jefferson National Forest,¹⁵ and with all remaining waterbody crossings,¹⁶ including waterbody crossings previously approved through the Commission staff variance process.¹⁷

11. We note that Order No. 871,¹⁸ which precludes construction while the Commission considers certain requests for rehearing, is not implicated by this order, which implements the provisions of the Commission's initial certificate and amendment orders.¹⁹ Thus, Mountain Valley is authorized by the Commission to proceed with all

¹⁴ 68 F.4th 630 (D.C. Cir. 2023).

¹⁵ As Mountain Valley acknowledges in its June 26 request, it cannot commence work in the Jefferson National Forest until it receives a notice to proceed from the Bureau of Land Management.

¹⁶ Our authorization here is issued in lieu of a notice to proceed with construction from the Director of the Office of Energy Projects (OEP). No further authorization from the Director of OEP is required before Mountain Valley can commence all outstanding construction on the project.

¹⁷ See, e.g., Commission Staff's May 18, 2020 Partial Approval of Variance Requests No. D-35 and G-12 (approving change in waterbody crossing method but not authorizing construction).

¹⁸ *Limiting Authorizations to Proceed with Constr. Activities Pending Rehearing*, Order No. 871, 171 FERC ¶ 61,201 (2020) (promulgating 18 C.F.R. § 157.23), *order on reh'g and clarification*, Order No. 871-A, 174 FERC ¶ 61,050, *order on reh'g and clarification*, Order No. 871-B, 175 FERC ¶ 61,098, *order on reh'g and clarification*, Order No. 871-C, 176 FERC ¶ 61,062 (2021).

¹⁹ Order No. 871-B, 175 FERC ¶ 61,098 at P 17 (“To the extent that a non-initial order merely implements the terms, conditions, or other provisions of an initial authorizing order—such as a delegated order issuing a notice to proceed with construction, approving a variance request, or allowing the applicant to place the project, or a portion thereof, in service—a request for rehearing of that order would not implicate the initial authorizing order and so we agree that the rule would not apply.”).

Docket Nos. CP16-10-000 and CP21-57-000

- 5 -

construction activities at all locations in accordance with federal authorizations, notwithstanding any request for rehearing of this order.²⁰

The Commission orders:

(A) The construction prohibitions from the Director of OEP's August 29, 2018 Partial Authorization to Resume Construction Order, as subsequently modified by the Commission's December 17, 2020 order, are lifted.

(B) Mountain Valley is authorized to proceed with all construction activities for the Mountain Valley Pipeline Project, including those approved in the Commission's April 8, 2022 amendment order, consistent with federal authorizations.

(C) The Director of OEP may authorize any subsequently filed variances that the Director finds to be needed to complete construction of the Mountain Valley Pipeline Project.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

²⁰ Section 324 of the Fiscal Responsibility Act of 2023 provides that no court shall have jurisdiction to review any action taken by the Commission granting any approval necessary for the construction of the Mountain Valley Pipeline Project. Fiscal Responsibility Act of 2023, § 324(e)(1), 137 Stat. at 47-48.

DECLARATION OF ROBERT J. COOPER

I, Robert J. Cooper, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Senior Vice President of Construction Services at Mountain Valley Pipeline, LLC (“Mountain Valley”). I have worked at Mountain Valley on the Mountain Valley Pipeline Project (“MVP Project”) since 2017. I have worked for Equitrans Midstream Corporation, one of Mountain Valley’s partners, since it was formed in 2018. From 2004 to 2018, I worked for Equitrans, L.P., a subsidiary of EQT Corporation that was part of the business that EQT spun off to form Equitrans Midstream Corporation.

2. I have personal knowledge regarding the current construction schedule for the MVP Project and the effect the Fourth Circuit’s stay of the MVP Project’s Biological Opinion and Incidental Take Statement will have on that schedule.

3. Under the schedule Mountain Valley intended to implement before the Fourth Circuit entered its stay, Mountain Valley expected to complete the remaining 438 stream crossings and remaining upland work between July 17, 2023, and December 31, 2023, with critical work being completed within the late summer months when weather conditions, such as non-freezing temperatures at night and low precipitation, are ideal for construction. It is particularly important

to complete open-cut stream crossings during this period, when flow in streams is low and can be more easily diverted to allow trenching in streams and minimize mobilization of sediment during installation and removal of the dams that isolate in-stream work areas.

4. Between July 5, 2023, and July 12, 2023, Mountain Valley was engaged in establishing locations and dams for stream crossings and commence the construction to complete the water crossings which includes the preparation of pipes for tie-ins, addressing required upland work, staging necessary construction equipment, completing time-sensitive surveys and posting the required signage.

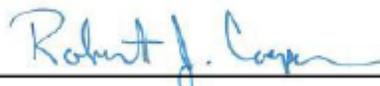
5. If a stay remains in effect beyond July 26, 2023, it is extremely unlikely that Mountain Valley will be able to complete construction before Spring 2024. Critical remaining construction work becomes increasingly difficult to complete safely after the onset of winter conditions, due to shorter work days, destabilization of work areas due to the freeze-thaw cycle, increased flow in streams, and winter storms. In Mountain Valley's experience, if major earth-disturbing tasks, especially those occurring in steep terrain, are not substantially complete before early November, they cannot be completed until spring under ordinary conditions.

6. With approximately three months of construction work and one month of commissioning activities remaining, the Pipeline will not be operational in 2023 unless MVP may begin uninterrupted construction by July 26, 2023.

7. Consequently, unless any stay is lifted by July 26, 2023, Mountain Valley likely will not be able to achieve an in-service date before Spring 2024.

8. Mountain Valley knows from long experience that the cost of maintaining temporary erosion controls during the pendency of a stay is roughly \$20 million per month and overall cost increases associated with six years of litigation have run into the billions of dollars.

Executed on July 14, 2023



Robert J. Cooper

DECLARATION OF JUSTIN MACKEN

I, Justin Macken, hereby depose and state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration. All facts stated are within my personal knowledge and are true and correct.

1. I am the Senior Vice President of Gas Systems Planning and Engineering at Equitrans Midstream Corporation, one of Mountain Valley Pipeline, LLC's partners, since it was formed in 2018. From 2008 to 2018, I worked for a subsidiary of EQT Corporation that was part of the business that EQT spun off to form Equitrans Midstream Corporation in late 2018.

2. I am responsible for leading the Engineering, Gas Systems Planning, Gas Control, and Gas Management functions at Equitrans Midstream Corporation. Among other things, I am responsible for ensuring our customers can transport gas within the bounds of our contracts on our various gathering and transmission systems on a daily basis. As a result, I am knowledgeable of the capabilities of our systems and the market dynamics downstream of our systems.

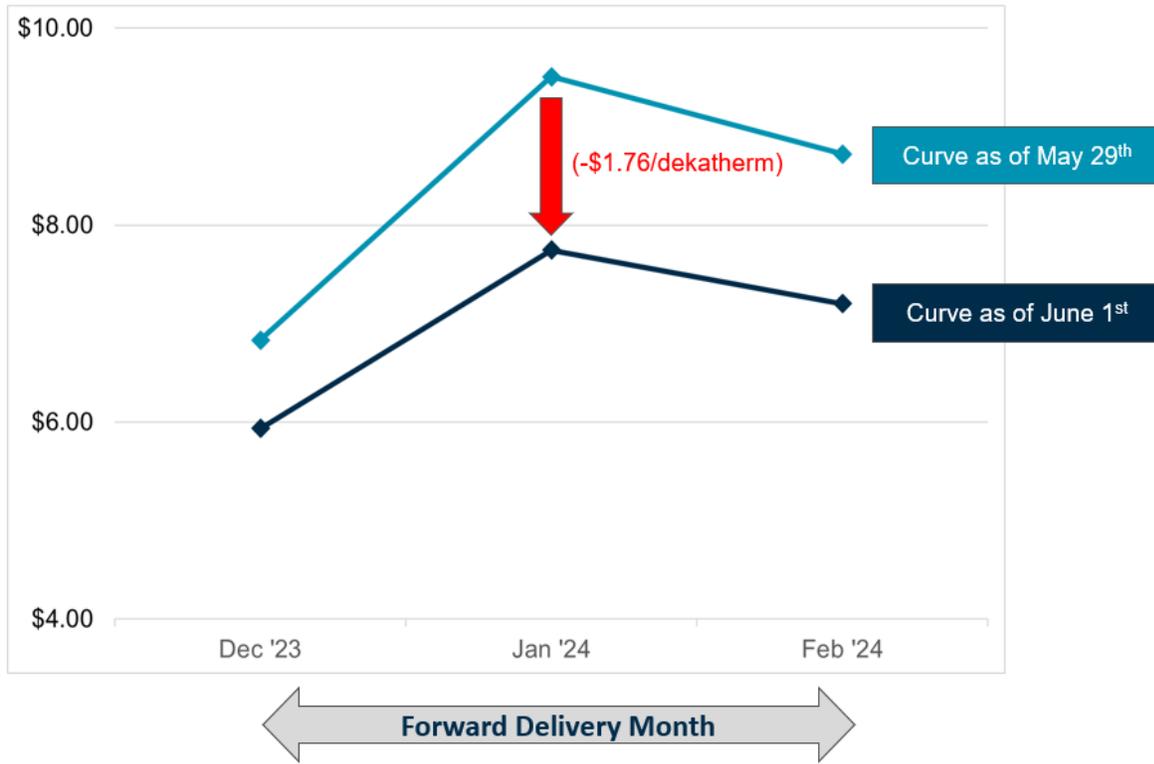
3. Project capacity for the Mountain Valley Pipeline ("MVP") has been fully subscribed since 2014, including by utilities that serve the mid-Atlantic and Southeast regions.

4. The Transco Zone 5 natural gas market includes all of South Carolina, North Carolina, and Virginia. Historically, this market has seen significant price volatility during the summer and winter seasons, which is indicative of an undersupplied market. End-use customers in these regions and elsewhere on the Transco system will ultimately feel the impact of these price swings in their monthly bills. The MVP will be able to provide up to 2 Bcfd of new supply to the Zone 5 market from the prolific Marcellus shale region, which is currently some of the least expensive gas in the country.

5. The Transco Zone 5 futures contracts are publicly traded on various commodity exchanges. The prices referenced in the charts below are available daily from FERC authorized companies such as *Natural Gas Intelligence* and *S&P Platts*.

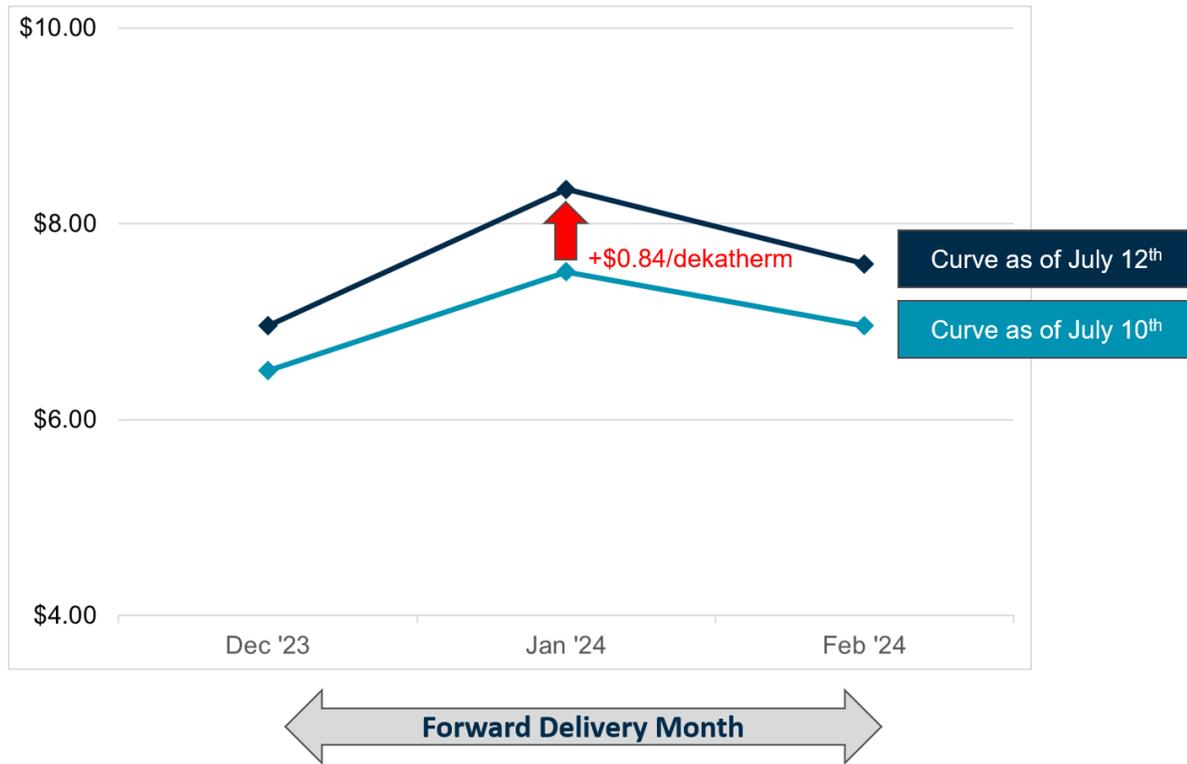
6. The need for the MVP was recently confirmed by market reactions represented by a \$1.76/dekatherm decrease in Transco Zone 5 January 2024 natural gas futures in commodity markets immediately after Congress's passage of the Fiscal Responsibility Act as represented in Figure 1 below, which included the provisions to complete the construction of MVP and that would, by extension, provide incremental supply into the Transco Zone 5 market during the coming winter months:

Figure 1: Transco Zone 5 Forward Curve (Winter 2023-24 Strip)
for May 29, 2023 and June 1, 2023



7. MVP's impact was again demonstrated immediately following the news of the most recent stays issued by the United States Court of Appeals for the Fourth Circuit on July 10, and July 11, 2023, when Transco Zone 5 January 2024 natural gas futures rose \$0.84/dekatherm as demonstrated in Figure 2 below.

Figure 2: Transco Zone 5 Forward Curve (Winter 2023-24 Strip)
for July 10, 2023 and July 12, 2023)



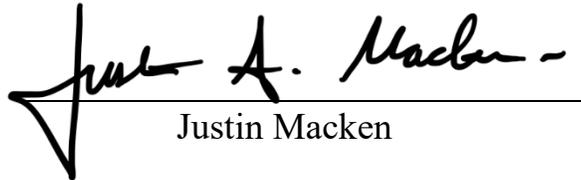
8. If the MVP can be completed, customers will see an immediate benefit from the presence of MVP-delivered natural gas into Zone 5 this winter as this gas delivered from MVP will not be subject to the same competitive market forces, including higher prices and constrained availability caused by the diversion of natural gas away from Zone 5 to other locations during extreme weather events as demonstrated during Winter Storm Elliott. *See* <https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=63276e03-87af-42d5-b2c2-97293fc5fe83>. In simple terms, regional gas consumers will no longer be at the proverbial end of the pipe and will not have to compete or pay for more expensive

constrained gas that can be sold elsewhere while also receiving better pricing and increased reliability due to the presence of MVP delivered gas.

* * *

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on July 14, 2023


Justin Macken



PUBLIC LAW 118-5—JUN. 3, 2023

FISCAL RESPONSIBILITY ACT OF 2023

SEC. 324. EXPEDITING COMPLETION OF THE MOUNTAIN VALLEY PIPELINE.

(a) **DEFINITION OF MOUNTAIN VALLEY PIPELINE.**—In this section, the term “Mountain Valley Pipeline” means the Mountain Valley Pipeline project, as generally described and approved in Federal Energy Regulatory Commission Docket Nos. CP16–10, CP19–477, and CP21–57.

(b) **CONGRESSIONAL FINDINGS AND DECLARATION.**—The Congress hereby finds and declares that the timely completion of construction and operation of the Mountain Valley Pipeline is required in the national interest. The Mountain Valley Pipeline will serve demonstrated natural gas demand in the Northeast, Mid-Atlantic, and Southeast regions, will increase the reliability of natural gas supplies and the availability of natural gas at reasonable prices, will allow natural gas producers to access additional markets for their product, and will reduce carbon emissions and facilitate the energy transition.

(c) **APPROVAL AND RATIFICATION AND MAINTENANCE OF EXISTING AUTHORIZATIONS.**—Notwithstanding any other provision of law—

(1) Congress hereby ratifies and approves all authorizations, permits, verifications, extensions, biological opinions, incidental take statements, and any other approvals or orders issued pursuant to Federal law necessary for the construction and initial operation at full capacity of the Mountain Valley Pipeline; and

(2) Congress hereby directs the Secretary of the Army, the Federal Energy Regulatory Commission, the Secretary of Agriculture, and the Secretary of the Interior, and other agencies as applicable, as the case may be, to continue to maintain such authorizations, permits, verifications, extensions, biological opinions, incidental take statements, and any other approvals or orders issued pursuant to Federal law necessary for the construction and initial operation at full capacity of the Mountain Valley Pipeline.

(d) **EXPEDITED APPROVAL.**—Notwithstanding any other provision of law, not later than 21 days after the date of enactment of this Act and for the purpose of facilitating the completion of the Mountain Valley Pipeline, the Secretary of the Army shall issue all permits or verifications necessary—

Deadline.

(1) to complete the construction of the Mountain Valley Pipeline across the waters of the United States; and

(2) to allow for the operation and maintenance of the Mountain Valley Pipeline.

(e) **JUDICIAL REVIEW.**—

(1) Notwithstanding any other provision of law, no court shall have jurisdiction to review any action taken by the Secretary of the Army, the Federal Energy Regulatory Commission, the Secretary of Agriculture, the Secretary of the Interior, or a State administrative agency acting pursuant to Federal law that grants an authorization, permit, verification, biological opinion, incidental take statement, or any other approval necessary for the construction and initial operation at full capacity of the Mountain Valley Pipeline, including the issuance of any authorization, permit, extension, verification, biological opinion, incidental take statement, or other approval described in subsection (c) or (d) of this section for the Mountain Valley Pipeline,

whether issued prior to, on, or subsequent to the date of enactment of this section, and including any lawsuit pending in a court as of the date of enactment of this section.

(2) The United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any claim alleging the invalidity of this section or that an action is beyond the scope of authority conferred by this section.

(f) EFFECT.—This section supersedes any other provision of law (including any other section of this Act or other statute, any regulation, any judicial decision, or any agency guidance) that is inconsistent with the issuance of any authorization, permit, verification, biological opinion, incidental take statement, or other approval for the Mountain Valley Pipeline.